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A GUIDE FOR CONSTABLES AND ALL PEACE OFFICERS,

In the due and lawful Exercise of their

OFFICE.

J. Hewitt

By an Acting JUSTICE.

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ENTERED in STATIONER's HALL,
Purſuant to Act of Parliament.

To the READER.

I Do not think it at all material to introduce this ſmall Pamphlet by giving the origin, or time when this important office was firſt inſtituted. I ſhall give a few abſtracts from the ancient Chronicles of the reſpectable Character, and Power of this officer, was then held in.

Anciently the high Conſtable's Power extended only to a few particulars, viz. to take arms from any perſon who rid armed from place to place to the terror of the people: and by virtue of the Lord Lieutenant of a county's warrant, to ſearch all ſuſpected houſes for arms in the day time, and to enter with force, and ſeize the ſame. He had power in the counties where cloths were made, to hear and determine complaints between maſters and their workfolks; the maſters were obliged to pay their ſervants in ready money, and the work-people to pay double value to the party injured. He had power to ſearch for unlawful inſtruments uſed in the ſtretching of cloths, &c. &c. if reſiſted, to levy ten pounds penalty on the offender. He had power to put a man into the ſtocks, if the offence was committed in his ſight.

My deſign being to aſſiſt the Conſtable in his proceedings, in ſuch caſes that may come within his duty, which are now within the ancient unrepealed laws of this country, or thoſe which have been enacted in later times; and to inſtruct the new elected and unexperienced officer in the line of his duty, and by way of precaution, to guard him againſt expenſive and vexatious proſecutions, and puniſhment from error in judgment, or neglect of his duty; theſe views anſwered, will afford the moſt pleaſing ſatisfaction the Author wiſhes to enjoy.

To all CONSTABLES, and other Peace Officers in *South Britain*, and Principality of *Wales*.

SIRS,

IN order to qualify yourſelves for the judicious and reſpectable diſcharge of your duty, as peace officers. In the firſt place, it is highly neceſſary that you ſhould have a thorough knowledge of the power you are inveſted with, agreeable to the laws of your country, and the authority given by the warrants of Magiſtrates. Let integrity and humanity direct you in all your proceedings, and it will be the way to ſucceſs; which will crown your endeavours with honour, and will gain reſpect, and the eſteem of all honeſt and good men.

On the other hand, neglect of duty, eſcapes, treating your unfortunate priſoner with cruelty, will ſubject you not only to puniſhment, but juſtly deſtroy the future confidence of the Magiſtrates, and render your character ſuſpicious and diſgraceful, and beſpeak you wanting of the feelings of humanity.

Your duty is to apprehend offenders, and not to determine offences; and you cannot diſmiſs or diſcharge the commands of a Magiſtrate, until he, the priſoner, hath obeyed the warrant, and appeared before the Juſtice; neither can your proceedings be juſtified without ſo doing, but ſubject you to an action. Maintain your authority with manly reſolution and decency; never abuſe or treat your priſoner with opprobious language, or inſolence, let his ſtate, or condition, be ſituated ever ſo indifferent.

rent. This conduct will gain you assistance whenever you need it, by calling upon by-standers to assist you in the King's Name, and protect you from contempt, and in the end, be a pleasing satisfaction to yourselves when you are discharged from your office, which is

The sincere and hearty wishes

Of your friend,

The EDITOR.

INTRODUC-

INTRODUCTION.

UPON the increaſe of people it was found neceſſary, to divide the kingdom into Shires, Hundreds, and Tythings; and for the better preſerving of peace in the county, as well to afford protection to the perſons, and property to the ſubject, from robbers and murderers; and no perſon without firſt giving a ſecurity for his good behaviour, was permitted to remove his habitation from one Hundred to another: and for the more ſpeedy and effectually carrying the laws into execution, a high Conſtable was appointed for each Hundred, petit Conſtable and Thirdborough, for each Pariſh, and Hamlet. Theſe ordinances took place in the time of Alfred the Great, as is moſt probable, though there are authors of different opinions; but as it is not very material, and uncertain, I will not entertain my readers with the diſputes amongſt authors, whether it was of Saxon or Norman inſtitution.

The office of high Conſtable is not of that extenſive utility or power as anciently, before the appointment of Juſtices of the peace: the greateſt part of the duty and buſineſs of a high Conſtable, is to execute the precepts of the Magiſtrates, which might as well be done by the petit Conſtable, or any other peace officer.

The principal and uſual branches of his duty and employment are, the delivering the appointments, and ſummonſes, to ſurveyors of the highways, overſeers of the poor, aſſeſſors and collectors of the land tax, and window duties; but the Juſtices may appoint any other Conſtable or perſon to do the buſineſs. But it is attended with leſs expence when ſeveral matters are done by the hand of one perſon, and makes it better

better worth the attention of men of ability and property: therefore the notices of publicans to attend on licence days, for the renewing their licences; the returning liſts of jurors, and collecting county rates, are all properly entruſted with the high Conſtable; as well as in moſt places, the billetting of ſoldiers, and other buſineſs that require ſteadineſs and confidence in the perſon they are entruſted with. Otherwiſe the authority of a petit Conſtable is equal to that of the high Conſtable, ſo is that of a Thirdborough, or Tythingman in their reſpective vills.

My opinions are taken from the moſt judicial ableſt writers, and coincide with the ſentiments of the moſt reſpectable authors of the preſent times; more particularly of the moſt worthy and reſpectable Magiſtrate this kingdom ever could boaſt of, for abilities and uſefulneſs. *S. J. F.*

All tautology, or inaccuracies of ſtile it is hoped will be excuſed, as it is only deſigned to prevent the inattention of duty in the officer.

Sir John F. Adms

THE

THE PRESENT MODE OF APPOINTING CONSTABLES.

FOR cities and boroughs, the choice of Conſtables are generally made at a Court Leet, for counties at large, at the general quarter ſeſſions, or by the Juſtices at a meeting in their reſpective diviſion; and for ſome places according to ancient cuſtom. The dwellers in country pariſhes ſerve by turns, or houſe-row: in Wales, two Juſtices appoint and ſwear the Conſtables into their office, and any one Juſtice may occaſionally appoint and ſwear a perſon into the office. Every Conſtable may appoint a deputy, who is puniſhable for neglect of duty, if properly ſworn in; otherwiſe his ſuperior is reſponſible for the miſconduct of his deputy. Anciently the office, more eſpecially that of high Conſtable, was held in great eſteem, and able reputable men of property were only appointed; and as the very ſupport of the civil authority, and carrying into execution the laws of this kingdom, depends on this officer's faithful diſcharge of his duty and truſt; none but men of known probity ſhould be choſen, or appointed thereto.

The office of high Conſtable is not of that extenſive utility as anciently; for they, as well as petit Conſtables, act under the directions of the Juſtices and Magiſtrates.

How far he is removeable from his Office.

And in ſuch manner as Conſtables are to be choſen, in the ſame manner, and by the like authority are they to be removed, either for neglect of duty, or breach of truſt. When choſen or appointed, if he refuſes to ſerve, is finable.

His Duty and Office as a Conſtable.

Every Conſtable is conſidered as a peace officer, and therefore any perſon making, or cauſing an affray, or aſſaulting another in his preſence, threatening to murder or illuſe, to his hurt or damage, or endeavouring by his warmth of paſſion to ſtir up ſtriſe and diſorderly behaviour, the Conſtable may ſecure him by impriſonment or otherwiſe; until he find ſureties for his appearance and good behaviour. But it is the propereſt method of proceeding, to take the offender with all convenient ſpeed before a Juſtice of the peace the next day, provided the affray happens in the night; otherwiſe upon his taking him into cuſtody, giving time for the priſoner to procure ſureties.

But if the Conſtable is not preſent when the affray happened, or the fighting over, he ſhould firſt apply to a Juſtice for a warrant, before he proceeds to apprehend the offender.

If the quarrelling or affray be not in his preſence, and he is informed of it, and neglects to go to the houſe or place where the diſturbance happens, in order to charge the peace, he may be indicted by preſentment before the grand jury.

Upon his coming to the place, or entering the houſe, may command the diſturbers of the peace immediately

to depart; if he meets with reſiſtance he may juſtify the defending himſelf by force, and charge aſſiſtance; if either he or they receive any wounds, and death enſues, it is by law, murder.

But in caſe of being wounded only, he may take both principle and acceſſaries into cuſtody, and carry them before a Juſtice of the peace, who hath power to commit or bail, according as circumſtances may appear, with reſpect to the perſons wounded.

If he is refuſed entrance into the houſe where the diſorder is, he may break open the doors, in order to preſerve peace; firſt giving notice to thoſe within, of his buſineſs and authority.

With reſpect to the diſturbers of congregations in the lawful exerciſe of their profeſſion, a Conſtable hath the ſame power and authority, as in the caſe of an affray before recited. In exciſe laws, or deer ſtealing, he acts under ſuperior authority.

With reſpect to felony of every claſs, he hath power to ſeize a felon without a warrant, and a perſon upon ſuſpicion, there having been a robbery or felony committed. The ſame with reſpect to highway robbers, or murders, if the ſuſpicion ariſes from information, he ought to be well ſatisfied that the fact hath been committed, or it will be deemed falſe impriſonment, and that his informer ſaw the fact committed; in ſuch caſe, the Conſtable acts in aid of the informer.

And it is the duty of the Conſtable to act circumſpectly and wiſely, as ſuppoſing the accuſer was not himſelf preſent; but more ſo if there was no fact committed, an action will then lie againſt him for falſe

impriſonment. On the other hand, if by neglect of duty the felon eſcapes, all the circumſtances neceſſary to give him authority. For the ſecuring him, being indiſputable, he will be liable to be puniſhed for a miſdemeanor; but if he is actually apprehended, and he corruptly and deſignedly ſuffer him to eſcape, it is felony in the Conſtable, and he may be tried for the ſame.

It is impoſſible to mention every circumſtance which may occur as a juſtifiable ſuſpicion, but I ſhall ſtate a few, and ſuch as have been approved in a Court of Juſtice.

1. Goods being ſtolen and found in the cuſtody of a perſon, who may have been before of good fame.

2. A perſon of bad repute, and a general ſuſpicious character.

3. Perſons leaving their dwellings and families, upon being ſuſpected of felony, may purſue them into another county.

In Caſe of Suſpicion only of Felony.

If a perſon ſuſpected, eſcape into a houſe, the officer may break open the door to apprehend him; but to juſtify his proceedings, he muſt be certain the offender is in the houſe; that he was denyed entrance after demanded, and notice that he was a Conſtable, had been anounced.

A Conſtable muſt not make a forcible entry, without requeſt being firſt made for the door to be opened, and the cauſe of his making the demand.

If there be diſorderly drinking, or noiſe in a houſe, at an unſeaſonable time of the night, in Inns, Taverns, or Ale-houſes, the Conſtable of the night, or the

the Watch demanding entrance, and being refuſed, may break open the door to ſuppreſs the affray, and preſerve the peace.

But I muſt adviſe, and recommend it to every peace officer, not to proceed to arreſt without a proper warrant from a Magiſtrate, unleſs upon a ſudden affray; as felony, murder, or ſtrong ſuſpicion, and the danger of offenders eſcaping makes it neceſſary, and will not allow time to repair to a Juſtice; in ſuch a caſe he is juſtified, becauſe he is finable if an eſcape happens by neglect.

By the ſtatute of Wincheſter it is enacted, That bailiffs of towns every week, or at leaſt, every fifteen days, ſhall make enquiry of all perſons being lodged in the ſuburbs, or in foreign places of the town; and if they do find any that have lodged or received any ſtranger, or ſuſpicious perſon, the bailiff ſhall do right therein; and if any ſtranger do paſs by the watch at night, he ſhall be arreſted until morning, and if no ſuſpicion be found, he ſhall go quiet; and if they find cauſe of ſuſpicion, they ſhall forthwith deliver him to the ſheriff, and the ſheriff may receive him without damage, and ſhall keep him ſafely until he be acquitted in due manner: and if they will not obey the arreſt, they ſhall levy hue and cry upon them, &c. &c. until taken, and deliver them to the ſheriff, as before is, and for the arreſtment of theſe ſtrangers, none ſhall be puniſhed.

And by the 5th of *E.* III. It is accorded, that if any man have an evil ſuſpicion of ſuch, be it by night or by day, they ſhall be incontinently arreſted by the Conſtables of the town. Upon theſe ſtatutes it is lawful to arreſt a night walker at an unſeaſonable time of the night, tho' no felony, &c. had been committed.

An Adjudged Caſe.

In an action of treſpaſs of aſſault, battery, or falſe impriſonment at N. the defendant pleaded, That one Mary kept a houſe in the ſaid town of N. and kept ſuſpicious perſons in it, to wit, a bawdy-houſe, and the plantiff often reſorted to the ſaid houſe ſuſpiciouſly, with women of evil fame (naming them) for which one Tho. Stiles, Conſtable of the ſaid town, came to the defendant, and deſired him to aſſiſt him in arreſting the plantiff, and to find ſurety for his good behaviour; on which account the defendant came with the ſaid T. S. at the hour of twelve at night, and found him ſuſpiciouſly in the ſaid place, by force of which they took him, and put him in ward, which is the ſame aſſault, battery, and impriſonment, for which the action is brought.

This was held a good juſtification by all the Judges, for they ſaid, It is lawful for every Conſtable to arreſt ſuſpected preſons who walk by night, and ſleep by day, or who keep ſuſpicious company; if they cannot of themſelves arreſt them, they may demand the aſſiſtance of others, and they are by law obliged to aſſiſt them.

The Duty of Conſtables with reſpect to the Vagrant Act.

By the 17th *Geo.* II. C. 5. intitled an act to amend and make more effectual the laws relating to rogues and vagabonds, and other idle and diſorderly perſons. And to houſes of correction it is enacted, that if any perſon ſhall be found offending againſt this act, it ſhall and may be lawful for any perſon whatſoever to apprehend the perſon ſo offending, and carry him, or cauſe him to be conveyed to ſome Juſtice of the peace, the

the perſon ſo apprehended; and if any Conſtable or officer ſhall refuſe or neglect to uſe his beſt endeavours to apprehend, or convey to ſome Juſtice of the peace, any ſuch offender, it ſhall be deemed neglect of duty in ſuch Conſtable or Officer; and on conviction, ſhall be liable to forfeit any ſum not exceeding five pounds, nor leſs than ten ſhillings.

The Offenders againſt this Act are thus deſcribed.

1. All perſons wandering abroad and begging.
2. All perſons begging, pretending to be mariners, ſoldiers, &c.
3. All perſons wandering abroad, lodging in alehouſes, barns, outhouſes, or in the open air, not giving a good account of themſelves.
4. All pedlars and petty chapmen, travelling without a licence.
5. Perſons running away, leaving their wives or children chargeable to the pariſh.
6. All miniſtrels, juglers, or fortune-tellers.
7. Perſons who for hire, gain, or reward, act repreſent, and perform or cauſe to be acted, repreſented, and performed, any interlude, tragedy, comedy, opera, play, farce, or other entertainment of the ſtage, or any part, or parts therein, not being authorized by law.
8. All foncers and bearwards, perſons going about collecting money for loſſes by fire, or other accidents, or for priſons, goals, or hoſpitals.
9. All Conſtables are not only authorized, but obliged under a penalty of ten ſhillings, to apprehend ſuch offenders, if the offence is in their view.
10. Any peace officer or any other perſon whatſoever, being charged by any Juſtice of the peace to be aiding and aſſiſting in the carrying this act into execution, ſuch perſon refuſing or neglecting to obey

ſuch orders, or not uſing his beſt endeavours to apprehend the offender, ſuch perſon ſo refuſing, ſhall forfeit the ſum of ten ſhillings.

11. And in caſe any perſon not being a Conſtable or other peace officer, ſhall apprehend any rogue, vagabond, &c. deliver him to a Conſtable, or carrying him before a Magiſtrate, will be intitled to a reward of ten ſhillings, to be paid by the Conſtable or treaſurer for the county.

And for the better underſtanding of the perſons intitled to the reward, the following abſtract is given.

If any perſon not being a Conſtable, ſhall apprehend any ſuch rogue or vagabond, and ſhall deliver him to a Conſtable, or convey him to a Juſtice; or if any Conſtable ſhall ſo apprehend and convey him, it ſhall be lawful for ſuch Juſtice to reward him, by making an order under hand and ſeal, upon the high Conſtable, to pay ten ſhillings to the perſon ſo apprehending him, within one week after demand, and producing ſuch order, and on his giving a receipt for the ſame; which ſhall be allowed by the treaſurer to ſuch high Conſtable, on paſſing his accounts, and delivering ſuch order and receipt, and alſo his own receipt for the ſame to ſuch treaſurer; the treaſurer alſo to be allowed the ſame in his accounts, on producing the ſaid vouchers; and in towns corporate, and other places, where there are no high Conſtables, ſuch petit Conſtables ſhall pay or retain ſuch reward, and to be allowed the ſame in their accounts, on producing the like vouchers. And if any high Conſtable, or where there is none, ſuch petit Conſtable, ſhall refuſe or neglect to pay ſuch reward on demand, ſuch Juſtice by his warrant may levy the ſum of twenty ſhillings by diſtreſs and ſale of his goods, and thereout allow the ſaid reward, and ſuch other recompenſe for his trouble

trouble, loſs of time and expences, as the ſaid Juſtice ſhall think fit; the overplus to be returned on demand.

The Manner of puniſhing ſuch Offenders.

Upon the offender being apprehended and taken before a Juſtice, he may order him to be publickly whipped by a Conſtable or other peace officer of the town or vill, or by ſome other perſon to be appointed by the Conſtable and other peace officer, or commit him to the houſe of correction till the next ſeſſions.

The form and manner is directed by the 22d *H.* 8. C. 12. and by the 39th *Eliz.* C. 4.

By the 22d *H.* 8. C. 12. the vagrant was to be carried to ſome market town, or other place, and there tied to the end of a cart naked, and beaten with whips throughout ſuch market town, or other place, till his body ſhould be bloody by reaſon of ſuch whipping.

By the 39th *Eliz.* C. 4. he was to be ſtripped naked from the middle upwards, and openly whipped, till his body ſhould be bloody, and afterwards paſſed unto the place of his laſt legal ſettlement. And any Conſtable receiving ſuch paſs and certificate, ſhall convey the perſon according to the direction of the paſs, the next direct way to the place where he is ordered to be ſent, if it be in the ſame county, riding, diviſion, corporation, or franchiſe; if not, he ſhall deliver the ſaid perſon to the Conſtable of the firſt town, pariſh, or place in the next county, riding, diviſion, corporation, or franchiſe; in the direct way to the place whither he is to be conveyed, together with the paſs and duplicate of the examination, taking his receipt for the ſame. And ſuch Conſtable

ſhall

ſhall without delay, apply to ſome Juſtice in the ſame county or diviſion, who ſhall make the like certificate, and deliver it to ſuch Conſtable, who ſhall with all ſpeed convey ſuch perſon unto the firſt pariſh, town, or place in the next county or diviſion, in the direct way to the place to which he is to be conveyed. And ſo from one county or diviſion to another, till they come to the place to which ſuch perſon is ſent. And the Conſtable, who ſhall deliver ſuch perſon to the churchwarden, or other perſon ordered to receive him, ſhall at the ſame time deliver the ſaid paſs, with the duplicate of the examination, taking their receipt for the ſame.

By whom the Expences are to be paid.

Where the high Conſtable hath not money in his hands ſufficient to anſwer the ſaid expences, the treaſurer ſhall pay the ſame to ſuch petit Conſtable, on his producing the certificate, and ſuch other vouchers as aforeſaid.

Puniſhment for counterfeiting a Certificate, and neglect of Duty.

And if any petit Conſtable, or governor of any houſe of correction, ſhall counterfeit any ſuch certificate or receipt, or knowingly permit any alteration to be made therein, he ſhall forfeit five pounds. And if he ſhall not convey, or cauſe to be conveyed, ſuch vagrants, or not deliver them to the proper perſon; or if any Conſtable ſhall refuſe to receive any ſuch perſon, or to give ſuch receipt, he ſhall forfeit twenty pounds, by diſtreſs and ſale, by warrant of the Juſtices in ſeſſions, where the offence ſhall be committed; half to the informer, and half to the treaſurer, to be applied by him as part of the public ſtock, returning the overplus

plus upon demand, charges of diſtreſs being firſt ſatisfied.

A few general Rules to be obſerved by Conſtables and all Peace Officers, for their Protection and Safety, in the due execution of their Office and Duty; more eſpecially when acting under the Authority of a Juſtice's Warrant.

The warrant muſt be granted upon an information, upon oath being made before a Magiſtrate within whoſe juriſdiction the offence hath been committed; and in caſe the offender reſides or flies into another county, a Juſtice of the peace for that county muſt give the original warrant additional authority, by indorſing the ſame on the back, directing all peace officers therein, to be aiding and aſſiſting in the apprehending the offender.

The warrant muſt be under hand and ſeal, and the name of the offender therein expreſſed: in caſe the name of the offender is not, but the charge in the information againſt a perſon or perſons unknown, or Tom or John, the ſervant of William; then the informer muſt attend the Conſtable, and fix upon the perſon whom he means, in the information made, whether felony, aſſault, or miſdemeanor; and this will juſtify the arreſt by the peace officer.

The arreſting a man firſt, and obtaining a warrant after, is illegal, and cannot juſtify the proceeding, prior to the proceeding of the warrant. A Conſtable may carry his priſoner before what Juſtice he pleaſes, provided the warrant be not ſpecial. Whenever a warrant is granted lawfully, and directed to the Conſtable,

or

or to all peace officers, the Conſtable muſt execute it, or he will be liable to an indictment.

In caſe of felony, if the offender after he is arreſted eſcapes into another county, the Conſtable may purſue him, and take him by virtue of his warrant. If any offender is arreſted by warrant for a miſdemeanor only, and the offender eſcape, he cannot be taken by virtue of the ſame warrant; but upon a freſh ſuit.

A Conſtable being a known officer in the town, need not ſhew his warrant; but he muſt acquaint the accuſed for what cauſe he apprehends him: he may charge others to his aſſiſtance, but muſt attend the execution of it himſelf.

The Conſtable in executing a warrant againſt a felon, may juſtify the killing him, if before or after the arreſt, he flies and defends himſelf, ſo that the officer muſt give over his purſuit, and cannot otherwiſe take him; the officer in this caſe ought to be very cautious; for in his juſtification, it ought to appear, that he was a lawful officer; for tho' a private perſon may arreſt a felon, and if he flies, ſo that he otherwiſe cannot be taken, the killing will be excuſable; yet this is at his peril, for if he be innocent of the felony, the killing before the arreſt ſeems, at leaſt, manſlaughter, for the reaſon above given; for an innocent perſon is not bound to take notice of a private perſon's ſuſpicion; but in all caſes whatever, the peace officer will be juſtified if the matter is within the juriſdiction of the Juſtice, who grants the warrant, or by the indorſement of another in a different county.

His Protection in the due Diſcharge of his Duty, and the Means by which he obtains his Expences for the Attendanee thereof.

In caſe of an action brought againſt a Conſtable, for any matter done in the execution of his authority, he may plead the general iſſue, and the ſpecial matter in evidence, and recover double coſts: But by the Stat. of G. II. C. 44. It is enacted, that no action, &c. ſhall be brought againſt any Conſtable, or other perſon acting by his order, and in his aid for any thing done in obedience to the warrant of a Juſtice of the peace, until demand hath been made, or left at the uſual place of his abode, by the party, or by his attorney, in writing, ſigned by the party demanding the ſame, of the peruſal and copy of ſuch warrant, and the ſame hath been refuſed or neglected for ſix days after ſuch demand: and if after compliance therewith, any ſuch action ſhall be brought, without making the Juſtice who ſigned ſuch warrant defendant, on producing, and proving ſuch warrant at the trial, the jury ſhall give their verdict for the defendant, notwithſtanding any defect of juriſdiction in the Juſtice. And if ſuch action be brought jointly againſt the Juſtice and Conſtable, on proof of ſuch warrant, the jury ſhall find for the Conſtable, notwithſtanding ſuch defect of juriſdiction as aforeſaid: and if the verdict be given againſt the Juſtice, the plantiff ſhall recover his coſt againſt him, to be taxed in ſuch manner by the proper officer, as to include ſuch coſts as the plantiff is liable to pay to ſuch defendant, for whom ſuch verdict ſhall be found as aforeſaid.

And with reſpect to their expences in the executing warrants of diſtreſs, they are authoriſed expreſly to deduct their own reaſonable charges; and where a perſon

perſon is committed, ſuch perſon's effects are to diſcharge the expence, (if ſufficient) or by an order of a Juſtice, the county is to pay it.

Profane Curſing and Swearing; the Duty of a Conſtable or Peace Officer thereupon.

In caſe any perſon ſhall curſe or ſwear in the hearing of a Conſtable, or any other peace officer, ſuch Conſtable, or any other peace officer, ſhall ſeize, ſecure, and detain ſuch offender, and carry him before the next Juſtice, Mayor, &c. who ſhall convict him on the oath of ſuch perſon or officer. But if ſuch offender ſhall be known to ſuch Conſtable or other peace officer, ſhall ſpeedily make information before ſome Juſtice, Mayor, &c. in order that he may be convicted. And if any Conſtable or other peace officer ſhall on the oath of one witneſs, before one Juſtice or Mayor, be convicted of having wilful, and wittingly omitted the performance of his duty in the execution of this act, he ſhall forfeit forty ſhillings, to be levied by diſtreſs; and if ſufficient diſtreſs ſhall not be found, he ſhall be committed to hard labour for one month.

Further Inſtructions to Conſtables, &c.

If there are two perſons of one name, and the ſame addition, and the Conſtable takes a wrong perſon, it is no falſe impriſonment.

If the warrant is againſt a particular perſon by name, and apprehends another, who is really the offender, ſuch taking is wrongful, and the party may have his action of falſe impriſonment, but will recover little damages.

A Con-

A Conſtable is juſtifiable in the detaining an offender for a day, by the command of a Juſtice of the peace without a warrant, the Juſtice not being prepared to examine him, or other matters before him.

A Conſtable upon an information of planting above half a pole of tobacco, muſt deſtroy it.

The high Conſtable or petit Conſtable of the vill, is to ſet the watch every night. A Conſtable appointed a man to watch, and becauſe he refuſed, he put him in the ſtocks, upon which an action for falſe impriſonment was brought; the defendant juſtified as Conſtable, but did not ſhew that the plantiff was an inhabitant of the town, for he might be a ſtranger, and then he could not appoint him to watch, nor put him into the ſtocks for refuſing, but muſt complain to a Juſtice.

Concerning his Office in the billelting of Soldiers.

Conſtables, Tything-man, and other peace officer, and no others, ſhall quarter ſoldiers in Inns, Alehouſes, Victualling houſes, or Shops ſelling ſpiritous liquors by retail, (private houſes excepted) but no more billets can be ordered than there are effective ſoldiers.

If any high Conſtable ſhall receive any bribe, or reward, to excuſe any peron from quartering ſoldiers, ſuch Conſtable ſhall upon conviction, forfeit five pounds, nor leſs than forty ſhillings.

Every high Conſtable, &c. is obliged when committed by one or more Juſtices, to deliver in writing the number of officers and ſoldiers billetted in each houſe.

Officer

Officer of a regiment marching. ſhewing the King's order to a Juſtice of the peace, he ſhall iſſue out orders to the Conſtables to provide carriages, the officer paying to the Conſtable in hand :

		£.	s.	d.
Per mile.	For a waggon and five horſes, or for four oxen and two horſes, or ſix oxen, - - -	0	1	0
Per mile.	For a cart and four horſes, and ſo proportionably,	0	0	9
	Officer making a carriage travel more than one day, or not diſcharging him in due time, or ſuffering ſoldiers (other than the ſick or wounded) or women to ride. Or forcing Conſtables to provide ſaddle horſes; or forcing horſes from the owners, forfeits for each offence,	5	0	0

The proof muſt be upon oath before two Juſtices, who are to certify it to the paymaſter general; who ſhall pay it, and deduct it out of the officer's pay. 4. and 5. *W.* & *M.*

No waggon ſhall be obliged to carry above twenty hundred weight.

Conſtables neglecting or refuſing to execute Juſtice's orders, or warrant, or any other perſon hindering the execution thereof, ſhall forfeit not exceeding forty ſhillings, nor under ten ſhillings, to the poor of the pariſh; to be determined by two Juſtices of the peace, and levied by diſtreſs and ſale, &c.

The treaſurer of the county ſtock, ſhall pay to the Conſtables all reaſonable ſums laid out for carriages, out of the public ſtock, above what ſhall be paid by the

the officers according to the Juſtice's diſcretion, regard being always had to the ſeaſon of the year; and if the public ſtock be not ſufficent, the Juſtices may raiſe money, as for county goals, or bridges.

Any Conſtables, &c. may take up a perſon ſuſpected to be a deſerter, and bring him before a Juſtice; and if upon examination, he ſhall be found to be a liſted ſoldier, the Juſtice ſhall ſend him to the county goal, and give account thereof to the Secretary of war.

For proviſion of carriages for the forces on their march, or for their arms, cloaths, and accoutrements; any Juſtice of the peace being duly required thereunto, by any order from his Majeſty, or the General of his forces, or the maſter general, or lieutenant general of his majeſty's ordnance, ſhall on ſuch order being brought and ſhewn unto him, by the quarter-maſter, adjutant, or other officer of the regiment, troop, or company ordered to march, iſſue out his warrant to the Conſtables or petit Conſtables of the ſaid diviſion, liberty, hundred, or precinct, from through, near, or to which ſuch forces ſhall be ordered to march; requiring them to make ſuch proviſion for carriages, with able men to drive the ſame, as is mentioned in the ſaid warrant; allowing them ſufficient time to do the ſame, that the neighbouring parts may not always bear the burden: and if ſufficient carriages cannot be provided within any ſuch liberty, diviſion, or precinct; then the next Juſtice (or Juſtices) of the county, riding, or diviſion, ſhall on ſuch order as aforeſaid, ſo brought and ſhewn to him, iſſue his warrant to the Conſtables, or petit Conſtables, of ſuch next county, riding, diviſion, or precinct, for the purpoſes aforeſaid, to make up ſuch deficiency.

And if any high or petit Conſtable ſhall wilfully neglect, or refuſe to execute ſuch warrants for providing carriages; or if any perſon appointed by ſuch Conſtable to furniſh any carriage and man, ſhall refuſe or neglect to provide the ſame, or any other perſon ſhall willfuly hinder the execution thereof; he ſhall forfeit not exceeding forty ſhillings, nor leſs than twenty, to the poor of the pariſh where ſuch offence ſhall be committed; the ſame to be heard and determined by two Juſtices, dwelling in or near the place, who ſhall cauſe the penalty to be levied by diſtreſs.

And whereas the ſums to be paid the Conſtable by the officers demanding carriages, are in many caſes not ſufficient to anſwer the charge and expence of providing the ſame, to the great burden of the townſhip; or alſo the perſons performing ſuch carriages are grievouſly oppreſſed: it is enacted, that the treaſurer of the county ſhall without fee, pay into the hands of ſuch Conſtable, all reaſonable ſums by him laid out for carriages, over and above what was or ought to have been paid, by the officer requiring ſuch carriages, out of the public ſtock; according to ſuch rates and orders as the Juſtices in ſeſſions ſhall direct, which orders ſhall be made without fee, regard being had to the ſeaſon of the year, and the length and condition of the ways; and if the public ſtock be not ſufficient, the Juſtices in ſeſſions may raiſe money as for goals and bridges, as aforeſaid has been ſtated; that is to ſay, the ſame ſhall be paid out of the general county rate, as directed by the 12th *G.* II. C. 29.

An adjudged Cauſe ſtated.

3d *G.* I. againſt E. and others. The court granted a mandamus directed to the Juſtice of the peace, to allow

allow the defendants being Conſtables, the extraordinary charges in providing carriages on the late expedition into North Britain.

If the high Conſtable, petit Conſtable, or any other officer, whoſe duty it is in any city, borough, town, or vill, to billet or ſettle the quarters of officers, ſoldiers, &c. ſhall neglect his duty in billetting, for the ſpace of two hours, provided ſufficient notice hath been given before, of the arrival of the forces; or ſhall take any reward to excuſe any perſon; or if any perſon liable, ſhall refuſe to receive any ſoldiers, or to furniſh them as required by this act, and be thereof convicted before one Juſtice, by confeſſion, or oath of one witneſs, he ſhall forfeit five pounds, (or any ſum, not exceeding five pounds, nor leſs than forty ſhillings) by diſtreſs; by warrant of ſuch Juſtice, to be directed to any other Conſtable, or any overſeer of the poor of the pariſh where the offender ſhall dwell, for the uſe of the poor of the ſaid pariſh.

His Duty in the Caſe of Hue and Cry.

Upon the party robbed giving due notice to the high Conſtable, petit Conſtable, Headborough, or Tythingman, of ſome town, pariſh, or vill, neareſt the place where the fact was committed, with a deſcription of the perſon, time and place of the robbery; ſuch notice being properly given, every ſuch Conſtable Headborough, Tythingman, &c. ſhall with the utmoſt expedition, make and cauſe to be made, freſh ſuit, and hue and cry after the offender, on the penalty of five pounds; and the purſuit is to be by horſe, and by footmen.

If the offender be not found in the firſt Conſtablewick, the Conſtable muſt give notice to the next, and

ſo on, until the offender be diſcovered and taken, or purſuit hath been continued to the ſea ſide. The Conſtable may ſearch all ſuſpected places, or houſes; but cannot break into any houſe, except he is ſure the felon, or &c. is therein.

But he muſt in this caſe, as in all others, firſt demand entrance to ſearch, and tell his buſineſs and authority; if entrance is refuſed, may then juſtify breaking open the door, and may apprehend any ſuſpicious perſon, and carry him before a Juſtice of the peace to be examined.

By order of the Juſtices in counties at large, high Conſtables are obliged to iſſue their precept to the petit Conſtables, Headboroughs, &c. to return liſts of proper perſons to ſerve as jurors.

The high Conſtable neglecting to iſſue ſuch precepts to the petit Conſtable, &c. forfeits ten pounds.

The petit Conſtable, Headborough, &c. neglecting to return a proper liſt, and not obeying the commands of the high Conſtable, forfeits five pounds.

The petit Conſtables, &c. hath power to ſearch the pariſh rates, in order to obtain a proper liſt of perſons qualified to ſerve; a liſt of the names intended to be returned, to be ſtuck upon the church door of the reſpective pariſhes. In caſe of any fraud, the Conſtable forfeits twenty ſhillings, half to the informer, and half for the poor.

The liſts to be delivered upon oath, and after being atteſted by the petit Conſtable, before a Juſtice of the peace, and ſigned by ſuch Juſtice; the petit Conſtable delivers it to the high Conſtable, and the high

high Conſtable delivers the ſame upon oath, in open court, of his ſo receiving it from the petit Conſtable, &c.

Finally, ſhall conclude this treatiſe with the only power I recollect of thoſe important duties belonging to peace officers; that of a Conſtable's jury, generally called over at the general quarter ſeſſions, at leaſt for the city and county of Coventry, and ſworn to true preſentment, make of all annoyances and nuſances within the city and county, and in caſe of neglect, are finable.

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And diſintereſted humble Servant, as a Magiſtrate,

J. HEWETT.

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